

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

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| UNITED STATES OF AMERICA, |) | CASE NO. 1:04 CR 605 |
| |) | |
| Plaintiff, |) | |
| |) | |
| vs. |) | Judge Peter C. Economus |
| |) | |
| JAMES L. BADGETT, |) | |
| |) | |
| Defendant. |) | <u>ORDER</u> |

On May 20, 2005, the Defendant, James Badgett, was sentenced to sixty-eight (68) months imprisonment, followed by three (3) years of supervised release, for Felon in Possession of a Firearm, a Class C Felony. His supervised release commenced on October 8, 2009.

On or about July 9, 2010, the U.S. Pretrial Services and Probation Office submitted a violation report alleging the following violations of the terms of supervised release:

- 1. Unsuccessful Termination of Inpatient Drug Treatment** - Defendant left an inpatient drug treatment program on July 1, 2010, after being ordered into it by this Court on June 23, 2010.
- 2. Use of Illicit Drugs** - Defendant tested positively for cocaine and marijuana on June 22, 2010. Defendant also tested positive for marijuana on June 28, 2010, and July 2, 2010.

On or about July 26, 2010, the U.S. Pretrial Services and Probation Office submitted a supplemental violation report alleging the following additional violations of the terms of supervised release:

1. Use of Illicit Drugs - Since the violation report dated 07/09/2010, the offender has tested positive for marijuana on two occasions, 07/01/201 and 07/13/2010. The recommendation remains unchanged.

The matter was referred to Magistrate Judge George J. Limbert to conduct the appropriate procedures and supervised release revocation hearing, if necessary. A summons was issued and a supervised release violation hearing was scheduled for July 27, 2010.

The Defendant appeared before the Magistrate Judge for a violation hearing on July 27, 2010, and was represented by appointed counsel Jacqueline Johnson. The Defendant admitted to violations 1-2 as charged in the July 9, 2010 report, and violation 1 as charged in the July 26, 2010 supplemental report. The Magistrate Judge has issued a report and recommendation, recommending that this Court find that the Defendant has violated standard and special conditions of his supervised release.

The Court has reviewed the Magistrate's report and recommendation and finds that it is well-supported. The Defendant has admitted violations 1-2 as charged in the Probation Office's July 9, 2010, violation report and violation 1 as charged in the July 26, 2010, supplemental report. As a result, the Court finds that the Defendant has violated the terms of his supervised release.

The Court has considered the statutory maximum sentence of two years pursuant to 18 U.S.C. § 3583(e)(3). The Court has also considered the advisory policy statements set forth in Chapter Seven of the United States Sentencing Guidelines prior to imposing sentence. The guideline range is 6-12 months pursuant to U.S.S.G. § 7B1.4(a). Furthermore, the Court has considered the factors for sentencing listed in 18 U.S.C. § 3553(a) and 3583(d).

The Court hereby **ADOPTS** the Magistrate's Report and Recommendation. (Dkt. # 1438). Based on this Court's review of all relevant factors, the Court hereby orders that the Defendant's terms and conditions of supervised release are hereby modified to require the Defendant to serve 90 days at the Mahoning County Community Corrections Association, which shall include intense substance abuse treatment.

IT IS SO ORDERED.

Issued: August 10, 2010

s/ Peter C. Economus
PETER C. ECONOMUS
UNITED STATES DISTRICT JUDGE